

“(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

“(B) TRANSFER OF CREDIT.—

“(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

“(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

“(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

“(C) CREDIT NOT INCOME.—Any transfer under subparagraph (B) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

“(D) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.”.

(2) CREDITS NOT REDUCED BY TAX-EXEMPT BONDS OR CERTAIN OTHER SUBSIDIES.—Section 45(b)(3) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(A) by striking clause (ii),

(B) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(C) by inserting “(other than any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Renewable Energy Incentives Act, or proceeds of an issue of State or local government obligations the interest on which is exempt from tax under section 103)” after “project” in clause (ii) (as so redesignated), and

(D) by striking “TAX-EXEMPT BONDS,” in the heading and inserting “CERTAIN”.

(3) CREDIT ALLOWABLE AGAINST MINIMUM TAX WITHOUT LIMITATION.—Clause (ii) of section 38(c)(4)(B) (defining specified credits) is amended to read as follows:

“(ii) the credit determined under section 45 to the extent that such credit is attributable to electricity or refined coal produced at a facility which is originally placed in service after October 22, 2004.”.

(4) TREATMENT OF QUALIFIED FACILITIES NOT IN COMPLIANCE WITH POLLUTION LAWS.—Section 45(d) (relating to qualified facilities), as amended by subsection (d)(3), is amended by adding at the end the following:

“(11) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a facility which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified facility during such period.”.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity and other energy produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 168—EXPRESSING GRATITUDE AND SINCERE RESPECT FOR JESSE R. NICHOLS

Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS) submitted the following resolution; which was considered and agreed to:

S. RES. 168

Whereas Jesse R. Nichols, Sr., faithfully served the United States Senate and the Committee on Finance as the Government Documents Clerk and Librarian from nineteen hundred thirty-seven through nineteen hundred seventy-one;

Whereas Jesse R. Nichols, Sr., was born on June 14, 1909, in Clarksdale, Mississippi, and was the first African American Clerk employed by the United States Senate;

Whereas he carried out his duties in exemplary fashion, bringing credit to the Committee and to Congress;

Whereas Jesse Nichols worked effectively under the guidance of Democratic and Republican Chairmen, including Pat Harrison of Mississippi, Walter F. George of Georgia, Harry Flood Byrd of Virginia, and Russell B. Long of Louisiana from the 75th Congress through the 91st Congress; and

Whereas the Committee on Finance will long remember the commitment, service, and leadership of Jesse R. Nichols, Sr., as documented in an oral history posted on the Senate Historian's website: Now, therefore, be it

Resolved, That the United States Senate expresses its deep gratitude and sincere respect for Jesse R. Nichols for his unfailing service and his dedication to the United States Senate. The Senate hereby expresses condolences to the family due to the death of Jesse R. Nichols, Sr., on February 18, 2005.

SENATE RESOLUTION 169—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO FREE TRADE NEGOTIATIONS THAT COULD ADVERSELY IMPACT CONSUMERS OF SUGAR IN THE UNITED STATES AS WELL AS UNITED STATES AGRICULTURE AND THE BROADER ECONOMY OF THE UNITED STATES

Mr. SANTORUM (for himself and Mr. ENSIGN) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 169

Whereas the President concluded negotiations with Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic to form the Dominican Republic-Central America-United States Free Trade Agreement (“CAFTA-DR”);

Whereas the CAFTA-DR only provides the 5 Central American countries and the Dominican Republic with modest additional access to the United States sugar market that will have no impact on United States sugar producers;

Whereas United States farmers and ranchers need access to new markets to expand the agricultural sector of the United States economy;

Whereas the United States manufacturing and service sectors need access to new markets to expand the broader economy of the United States;

Whereas new market access for United States products is only possible through comprehensive free trade agreements that include all products and services;

Whereas the CAFTA-DR will help build democracy, security, and the rule of law, in addition to helping integrate the economies of the United States and countries in the region;

Whereas sugar growers are already one of the most highly protected special interests in the United States;

Whereas the provisions of the CAFTA-DR offer protection to United States sugar growers, in addition to the numerous existing mechanisms that have been designed to shield sugar growers from any competition;

Whereas the United States sugar program has caused the loss of thousands of jobs in the United States in the sugar product manufacturing and cane refining sector;

Whereas every effort has been taken by the administration and Congress to accommodate the United States sugar growers, but they continue to oppose the CAFTA-DR and any free trade agreement containing new market access for sugar; and

Whereas the United States sugar growers' intransigence in wanting to exclude sugar from all future trade agreements threatens to undermine trade opportunities for United States agriculture and the rest of the United States economy: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should negotiate and sign free trade agreements that are comprehensive in scope in order to ensure that the entire United States economy can benefit from new market opportunities provided by such agreements

SENATE RESOLUTION 170—RELATIVE TO THE DEATH OF J. JAMES EXON, FORMER UNITED STATES SENATOR FOR THE STATE OF NEBRASKA

Mr. FRIST (for himself, Mr. REID, Mr. HAGEL, Mr. NELSON of Nebraska, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Mrs. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEMINT, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS,